

**BUREAU FOR PRIVATE POSTSECONDARY
AND VOCATIONAL EDUCATION**

FINAL STATEMENT OF REASONS

Hearing Date: October 17, 2002

Sections Affected:

The proposed regulations amend sections 76000, 76010, 76120, 76130, 76200, and 76210; repeal sections 76100 and 76110, and adopt section 76215 in Chapter 7 of Division 7.5 of Title 5 of the California Code of Regulations (CCR).

Updated Information

The Initial Statement of Reasons is included in the file. The information contained therein is updated as follows:

Subsequent to the enactment of AB 201, Assembly Bill 2967 (Chapter 581, Statutes of 2002) was enacted (effective January 1, 2003). Assembly Bill 2967 impacted areas directly related to the originally proposed regulations (see section 94945 of the Code¹). Therefore, regulations in this package are being modified to conform to provisions in AB 2967. The following is a summary of AB 2967's applicable changes:

- Assembly Bill 201 amended the law to require the schools to collect assessments directly from each “new student” and remit these fees to the BPPVE during the succeeding quarter. Assembly Bill 2967 further authorized assessment as tuition is paid or loans are funded on behalf of the student.
- Assembly Bill 2967 specified that: (1) the assessment for the STRF fee is based upon the assessment rate in effect when the student enrolled at the school; (2) for students enrolled on or after January 1, 2002, the slightly higher assessment rate for 2002 must remain in effect for the duration of those students' enrollment agreements and (3) students who signed an enrollment agreement before January 1, 2002 must be assessed the STRF rate in effect before that date.
- In addition, AB 2967 defines “new student” and, therefore, clarifies this term, which was not defined under AB 201.

¹ All references to “the Code” are to the California Education Code.

In addition to modifying the originally proposed regulations to conform to AB 2967, the BPPVE modified the originally proposed language based on comments received during the 45-day comment period and the hearing of October 17, 2002. Many of these comments addressed the changes made by AB 2967.

The Notice of Availability of Modified Text, the modified text and modified forms were made available to the public from April 7, 2003 to April 23, 2003. There were no further modifications after the 15-day comment period.

There are no changes to the Initial Statement of Reasons for the following sections:

76000(f), (j) – (m); 76010; 76100; 76110; 76130(c), (e); 76200(a), (b), (d); and 76210(b).

The Initial Statement of Reasons for the sections listed below is updated as follows:

SECTION 76000(c)

This section is being modified to specify that an application fee is not included in the definition of tuition. This modification is necessary because subdivision (a) of section 94945 bases assessments on total tuition charged students for total tuition costs. This modification is necessary to clarify and exclude the fees that are not related to instruction and/or are non-refundable. The application fee is charged by schools to process and determine admission to a program, are non-refundable and therefore are not considered tuition for purposes of the STRF.

SECTION 76000(d)

The amendment of section 76000(d) that was proposed in the original regulatory proposal is being withdrawn in response to testimony. Therefore, no amendments are being proposed to this regulation.

SECTION 76000(g)

This section is modified to add the following as part of an economic loss: collection costs, penalties and any amount a school may have collected and failed to pay to third parties for license fees or any other purpose on behalf of the student.

This section is being modified because section 94944(f) of the Code requires that claim payments include collection costs and “the amount the institution collected and failed to pay to third parties on behalf of the

student for license fees or any other purpose.” For example, it is common for a student to pay a fee for a licensing exam or a test at an automotive repair school that leads to licensing with the Bureau of Automotive Repair (BAR). If the school closes, cancels or discontinues a course or educational program, the school is required to make a full refund to the student for all fees that the school collected on the student’s behalf but failed to send to BAR, the licensing agency. The modification to section 76000(g) covers this situation and includes it as an economic loss. This provision was added to section 94342(f) of the Code in 1993 after promulgation of the original regulation and is now part of current section 94944(f) of the Code.

The proposed amendment also includes penalties as part of economic loss because under section 94944(f)(1) of the Code, the BPPVE is required to pay the “amount of the loss suffered by the student” if the claim is based upon the school’s failure to reimburse federally guaranteed loan proceeds. (Crossreferences in section 94944(f)(1) of the Code to subparagraphs (B) and (C) of paragraph (1) of subdivision (a) under section 94944 of the Education Code are in error and clearly intended to refer to subparagraphs (ii) and (iii) under section 94944(a)(1)(A) of the Education Code.)

These modifications are necessary to conform to section 94944(f)(1) of the Code to further clarify the intent of section 94944 of the Code to reimburse students for these “pecuniary losses,” and in response to testimony.

SECTION 76000(h)

The proposed regulation is being withdrawn because AB 2967 (Chapter 581, Statutes of 2002) defined the term “new student.” (See Education Code section 94945(a)(1)(C)).

SECTION 76000(h) – Adopt new section 76000(h)

Specific Purpose:

Adoption of a new subdivision (h) in section 76000 is being proposed to classify students who signed an enrollment agreement before January 1, 2002. The statute currently refers to these students as “not new students” under section 94945(a)(1)(C) of the Code. These students must be assessed in accordance with the STRF rate in effect before January 1, 2002. The BPPVE is proposing to refer to these students as “continuing students” to use a more clear, concise and less awkward term than the currently described “not new students” in section 94945(a)(1)(C) of the Code.

Factual Basis:

The adoption of this section is necessary to distinguish “new students” from “not new students” and to implement section 94945(a)(1)(C) of the Code.

SECTION 76000(i)

The BPPVE is modifying this section to clarify that “newly enrolled student” means the same as a “new student,” defined under section 94945(a)(1)(C). Assembly Bill AB 2967 clarifies the term “new student” to mean students who sign their enrollment agreement on or after January 1, 2002. In the use of the term “new” and the exclusion of students enrolled prior to January 1, 2002, the Legislature draws a distinction based upon time periods between two classes of students for purposes of assessment. Similarly, the use of the term “newly enrolled” and the failure to include language including “not new students” for purposes of special assessment must necessarily mean that only students enrolled after January 1, 2002 or “new students” are subject to special assessment. Therefore, this modification is necessary to clarify that the definitions and terms for “newly enrolled student” and “new student” are synonymous for purposes of section 94945(a)(5)(B) of the Code.

SECTION 76115

Proposed adoption of section 76115 is being withdrawn in response to testimony.

SECTION 76120(a)

This regulation as originally proposed clarified an ambiguity created by former Education Code sections 94945(a)(1)-(3), which mandated assessment calculation based upon tuition as it was “paid” as well as tuition as it was “charged.” Former section 94945(a)(3)(A) stated that assessments during 2002 would be calculated at the rate of three dollars (\$3) per thousand dollars of tuition “paid.” Former section 94945(a)(1), as amended by AB 201 (Stats.2001, ch.621, eff. January 1, 2002), stated that assessments on students attending private postsecondary institutions would be based “on the actual amount charged each of these students for total tuition cost, regardless of the portion that is prepaid.” Based upon current regulations and correspondence from the author of AB 201 (see “Materials Relied Upon” and letter dated 9/10/01), this section as originally proposed calculated the assessment based upon “the actual price charged each new student for tuition, regardless of the portion which is prepaid.” However, section 94945(a)(1) was later amended by AB 2967

(Stats.2002, ch.581, eff. January 1, 2003), which added the following modification to that sentence: "and shall be assessed as tuition is paid or loans are funded on behalf of the student." This addition by the Legislature makes it clear that the assessment must be made and collected by institutions as the tuition is paid or loans are funded by the student, rather than as tuition is charged.

Therefore, the proposed modifications clarify that, for enrollment agreements signed during the year 2002, the assessment rate of \$3.00 per \$1000 dollars of tuition, rounded to the nearest thousand dollars, applies "as tuition is paid or loans are funded on behalf of the student." This modification is necessary to clarify section 94945(a)(3)(A) and conform to section 94945(a)(1)(A) of the Code.

In addition, the word "charged" is modified to "paid" to clarify inconsistencies between paragraphs (A) and (B) under section 94945(a)(3) of the Code. This inconsistency is resolved by section 94945(a)(1)(A) which clearly states that the amount assessed "shall be assessed as tuition is paid or loans are funded on behalf of the student."

SECTION 76120(b)

This regulation as originally proposed clarified an ambiguity created by former Education Code sections 94945(a)(1)-(3), which mandated assessment calculation based upon tuition as it was "paid" as well as tuition as it was "charged." Former section 94945(a)(3)(B) stated that assessments during 2002 would be calculated at the rate of two dollars and fifty cents (\$2.50) per thousand dollars of tuition "paid." Former section 94945(a)(1), as amended by AB 201 (Stats.2001, ch.621, eff. January 1, 2002), stated that assessments on students attending private postsecondary institutions would be based "on the actual amount charged each of these students for total tuition cost, regardless of the portion that is prepaid." Based upon current regulations and correspondence from the author of AB 201 (see "Materials Relied Upon" and letter dated 9/10/01), this section as originally proposed calculated the assessment based upon "the actual price charged each new student for tuition, regardless of the portion which is prepaid." However, section 94945(a)(1) was later amended by AB 2967 (Stats.2002, ch.581, eff. January 1, 2003), which added the following modification to that sentence: "and shall be assessed as tuition is paid or loans are funded on behalf of the student." This addition by the Legislature makes it clear that the assessment must be made and collected by institutions as the tuition is paid or loans are funded by the student, rather than as tuition is charged.

Therefore, the proposed modifications clarify that the rate of \$2.50 per \$1000 dollars of tuition rounded to the nearest thousand dollars applies

“as tuition is paid or loans are funded on behalf of the student.” This modification is necessary to clarify section 94945(a)(3)(B) and conform to section 94945(a)(1)(A) of the Code.

In addition, the words “charged” and “regardless of the portion which is prepaid” are removed and replaced with “applies to each new student as tuition is ‘paid’.” This modification is necessary to clarify inconsistencies between paragraphs (A) and (B) under section 94945(a)(3) of the Code. This inconsistency is resolved by section 94945(a)(1)(A) which clearly states that the amount assessed “shall be assessed as tuition is paid or loans are funded on behalf of the student.”

SECTION 76120(c) – Adopt new section 76120(c)

Specific Purpose:

A new subdivision (c) is being adopted to clarify Education Code section 94945(a)(1)(C), to indicate that continuing students as defined under proposed section 76000(c) must be assessed the fee in existence before January 1, 2002, and to specify the applicable fee structure in accordance with AB 71 (Chapter 78, Statutes of 1997). Currently, Education Code section 94945(a)(1)(C) states that "those students who sign their enrollment agreement prior to January 1, 2002, are not 'new students' for purposes of this section, and shall be assessed the Student Tuition Recovery Fund fee in effect prior to January 1, 2002." However, section 94945(a)(1)(C) does not specify the actual rates in effect prior to January 1, 2002 and applicable to those who are "not new students." Therefore, this proposed section is needed to specify the assessment fee structure in effect before January 1, 2002 that would be applicable to students who are "not new" as referenced by section 94945(a)(1)(C) (also specified as "continuing students" under proposed section 76000(c)). Assembly Bill 71 authorized the assessment rates in effect before January 1, 2002. Paragraphs (1) through (4) specify the assessment tiers under this fee structure that were in effect before January 1, 2002.

Factual Basis:

This section is necessary to implement current section 94945(a)(1)(C) of the Code and to make specific the payment structure in existence before January 1, 2002 as authorized by AB 71 (Chapter 78, Statutes of 1997) under former sections 94945(a)(1)(A) through (D) of the Code.

SECTION 76120(d)

Existing subdivision (b) of section 76120, originally proposed at section 76120(c), is being renumbered to subdivision (d) to accommodate the addition of a proposed new regulation at subdivision (c).

This section is being amended to conform to section 94945(a)(6) of the Code. This provision sets limits on assessments, as specified, if as of June 30 of the prior fiscal year, the Student Tuition Recovery Fund exceeds \$1.5 million for the degree-granting postsecondary educational institution account and \$4.5 million for the vocational educational institution account. This regulation is being amended by replacing the incorrect amount of \$1 million with the correct amounts specified by current law and specifying the date in which the Fund balance limits are to be considered. Additionally, as explained in the Initial Statement of Reasons, "Council" is being changed to "Bureau." These are non-substantive amendments to conform to current law at sections 94770 and 94945(a)(6) of the Code.

SECTION 76130(a)

This section is being modified because the Quarterly Assessment Report, Form #STRF-03, effective January 1, 2002, is being replaced with the STRF Assessment Reporting, Forms #STRF-03, 04 and 05, effective January 1, 2002. Corresponding changes are being made to the heading of this section to reflect the title of the new form. Three forms are necessary because AB 2967 established three different assessment rates. Form #STRF-03 captures data for continuing students who must be assessed at the rate in existence before January 1, 2002 (section 94945(a)(1)(C) of the Code.) Form #STRF-04 captures data for students assessed at the rate for the duration of 2002 (section 94945(a)(3)(A) of the Code.) Form #STRF-05 captures the data for students assessed at the rate commencing with January 1, 2003 (section 94945(a)(3)(B) of the Code.)

In addition, the assessment for new students on Forms #STRF-04 and 05 will no longer be reported by course or program but by total revenue paid by the student and collected by the school in accordance with section 94945(a)(1)(A) of the Code. The new forms were made available to the public during the 15-day renote from April 7 through April 23, 2003.

These modifications are necessary to conform with AB 2967 in response to testimony and to implement sections 94945(a)(3) and 94945(a)(1)(A), (C) of the Code.

These sections are also modified to clarify that the BPPVE must provide institutions **and** registered institutions offering Short-term Career Training with the STRF Assessment Reporting, Forms #STRF-03, 04 and 05, effective January 1, 2002. This modification is necessary because the Private Postsecondary and Vocational Education Reform Act distinguishes between institutions (see section 94739 of the Code) and registered institutions (see section 94740.1 and Article 9.5, commencing with section 94931 of the Code). Of the registered institutions, only those that offer Short-term Career training (defined in section 94742.1 of the Code) are subject to STRF (see section 94931.1(d) of the Code).

SECTION 76130(b)

This section is being modified because the Quarterly Assessment Report, Form #STRF-03, effective January 1, 2002, is being replaced with the STRF Assessment Reporting, Forms #STRF-03, 04 and 05, effective January 1, 2002 (see the purpose and necessity under subdivision (a) of section 76130) above.

This subdivision is also modified to (1) require registered institutions offering Short-term Career Training to complete the STRF Assessment Reporting, Forms #STRF-03, 04 and 05, effective January 1, 2002, as specified and (2) to exempt these same institutions from the requirement in this section if students exercise their right of rescission (see justification under subdivision (a) of section 76130 above.)

This subdivision is also modified to add “continuing students” to the list of students from whom the schools collect the STRF fee to remit to the BPPVE. This modification is necessary to implement section 94945(a)(1)(C) of the Code and to ensure that all STRF fees are remitted to the BPPVE.

Modification of the date from October 30 to October 31 is a technical amendment and correction of a typographical error.

Paragraph 2 of subdivision (b) is being withdrawn in response to testimony.

SECTION 76130(d)

This section, which lists the data required to be collected and maintained for each student, is modified to change references to the correct proposed reporting forms (STRF Assessment Reporting, Forms #STRF 03, 04 and 05, effective January 1, 2002) (see subdivision (a) of proposed section 76130.) This section is also modified to include registered institutions offering Short-term Career Training to those institutions that are required

to maintain a record of student information (see final modification for sections 76130(a) and (b)). Finally, this section is modified to change item #6 from “Date enrolled” to “Date enrollment agreement signed” and to add items #11 and #12, “Total tuition charged” and “Total tuition paid,” respectively.

These modifications are necessary to ensure that all data and items in the STRF Assessment Reporting, Forms #STRF 03, 04 and 05, effective January 1, 2002, are maintained and substantiated as reported to the BPPVE consistent with the requirements for assessment under section 94945(a) of the Code.

SECTION 76130(f)

This proposed regulation is being reorganized and reformatted for clarity. An incorrect crossreference to subdivision (b) is also being corrected to subdivision (a).

In addition, this section is being modified to reference the new STRF Assessment Reporting, Forms #STRF 03, 04 and 05, effective January 1, 2002. This section is also modified to include registered institutions offering Short-term Career Training in this requirement (see final modification for sections 76130(a) and (b)).

The specific purpose for this section remains the same one stated in the Initial Statement of Reasons; i.e., to require data reporting and STRF fee collection from schools within 40 days of the date in which the BPPVE mails the STRF Assessment Reporting Forms #STRF-03, 04 and/or 05, effective January 1, 2002, in the event that the BPPVE fails to send these forms in accordance with section 76130(a). The factual basis and necessity for this regulation is also unchanged (see Initial Statement of Reasons at section 76130(f)).

SECTIONS 76200(c)

This section is being modified to crossreference to section 76000(g). This is a non-substantive change referring the user to the definition of economic loss.

SECTION 76210(a)

Subdivision (a) of section 76210 is being modified to change “may” to “shall” to indicate that negotiations by the BPPVE, as specified, are mandatory and not permissive. This modification is necessary to conform this regulation to section 94944(g)(1) of the Education Code.

SECTION 76215(a)

Modifications to the disclosure statement are being made in response to testimony. The disclosure statement in section 76215 is reformatted so that the required information for students who must pay and those who are not required to pay the STRF fee is in outline form (see items #1 and #2, respectively.) This modification is necessary because testimony received made it evident that clarity needed to be enhanced while preserving consistency with the requirements of sections 94810(a)(10), (11) and 94825(b)(1).

An additional modification is made that substitutes “registered institution under section 94931(c)(2)” with “registered institutions offering Short-term Career Training.” This modification is necessary because only registered institutions that offer Short-term Career Training are subject to STRF (see section 94931.1(d) of the Code and justification under section 76130(a) above) and provides a more recognizable reference to the types of registered institutions subject to the STRF, consistent with section 94742.1 of the Code..

SECTION 76215(b)

This section is being modified as follows. In the first paragraph of the disclosure statement, the word “Legislature” is being replaced with “State of California.” In the second paragraph of the disclosure statement, the qualifying statement “at the time you signed an enrollment agreement or at the time you received lessons at a California mailing address from a school approved to offer correspondence instruction in California” is being deleted to address concerns regarding the length of the proposed disclosure. The term is defined at section 76000(d).

In addition, the BPPVE is modifying items #2, #3, #4, #5 and #6 to reflect statutory language at Education Code section 94944(a)(1)(A)(ii), (iii), (iv), (v), and (vi) more closely. The BPPVE determined, based on numerous comments received during the 45-day comment period/hearing, that more “user friendly” language might, in this case, lead to misinterpretation or leave out essential provisions of the law. Therefore, this modification is necessary for clarity.

Modifications to the last paragraph of the disclosure statement are technical, non-substantive changes to improve the clarity of the language.

EXHIBIT A

The Quarterly Assessment Report Form #STRF-03, effective January 1, 2002, and sample completed by a fictitious institution is being replaced in

its entirety with the STRF Assessment Reporting, Forms #STRF-03, 04 and 05, effective January 1, 2002. This replacement is necessary because AB 2967 requires three assessment rates.

- Form #STRF-03 captures data for “continuing students” who must be assessed at the rate in existence before January 1, 2002 (see section 94945(a)(1)(C) of the Code.)
- Form #STRF-04 captures data for “new” or “newly-enrolled” students during 2002 who are assessed at the rate that applies for the year 2002 (see section 94945(a)(3)(A) of the Code), and
- Form #STRF-05 captures the data for “new” or “newly-enrolled” students enrolled after January 1, 2003 who are assessed at the rate that applies commencing with January 1, 2003 (see section 94945(a)(3)(B) of the Code.)

The assessment for new students (Forms #STRF-04 and 05) will no longer be reported by course or program but by total revenue paid by the student and collected by the school because section 94945(a)(1)(A) of the Code, as amended by AB 2967, now requires that the STRF fee be assessed “as tuition is paid or loans are funded on behalf of the student.”

The new forms were made available to the public, along with other modifications in this regulatory package, for a 15-day notice from April 7 through April 23, 2003.

Replacement of the Quarterly STRF Assessment Report, Form #STRF-03 with the new STRF Assessment Reporting, Forms #STRF-03, 04 and 05, effective January 1, 2002 is necessary to implement amendments made to the statute by AB 2967 at sections 94945(a)(1)(A), (C) and (a)(3) of the Code.

EXHIBIT B

Student Tuition Recovery Fund Application, Form #STRF-02, effective January 1, 2002 is being modified to conform to changes made to proposed section 76215 in response to testimony received during the 45-day comment period/hearing (see responses to comments #28, #30, #32, #33, #34, #35, #36 and #37).

In page 2 of this form, the addition to item No. 1 of “registered school offering Short-term Career Training” is necessary because the Private Postsecondary and Vocational Education Reform Act distinguishes between institutions (see Education Code section 94739) and registered institutions (see section 94740.1 and Article 9.5, commencing with section

94931 of the Code). Of the registered institutions, only those that offer Short-term Career training (defined in Education Code section 94742.1) are subject to STRF (see Education Code section 94931.1(d)).

Under item No. 3 on page 2 of this form, "at the time of enrollment/when you paid tuition (see your enrollment agreement)" is deleted because it is no longer consistent with section 94945(a)(1) of the Code. That section now requires that the STRF fee be paid by the student "as tuition is paid or loans are funded." Therefore, the deleted phrase is no longer accurate.

The following statement, "If you are temporarily residing in California for the purpose of pursuing an education or hold a visa issued by the United States Immigration and Naturalization Service, such as a student visa or temporary workers visa" is being deleted because this language initially proposed to amend the definition of California resident under section 76000(g) is being withdrawn and is not part of the definition of California resident. The statement "you were not a California resident who attended a Bureau approved or registered school" is being added to replace the deleted language and to conform the ineligibility criteria to sections 94944(a) and 94945(a) of the Code.

Other modifications are changes in grammar or syntax and are non-substantive.

EXHIBIT C

Notice and Explanation of Student Rights Under the Student Tuition Recovery Fund, Form #STRF-06 (English and Spanish), effective January 1, 2002 is being modified in both the English and Spanish versions to conform to changes made to proposed section 76215(b) in response to testimony received during the 45-day comment period/hearing (see responses to comment #40 and also #28, #30, #32, #33, #34, #35, #36 and #37).

Form #STRF-06 is being modified as follows. On page 1, paragraph No. 2, of STRF-06, the word "Legislature" is being replaced with the "State of California." In the third paragraph on page 1, the BPPVE is modifying the explanation of eligibility criteria as follows: removal of the definition for California resident which is already defined at Section 76000(g), revision of the list of events qualifying a student for STRF reimbursement to more closely reflect statutory criteria at Education Code sections 94944(a)(1)(A)(ii)-(vi). On page 3, following the sentence beginning "You are not eligible for STRF" if, the phrase "you are not a California resident who attended a Bureau approved or registered school" is being added to replace the deleted language and to conform the ineligibility criteria to sections 94944(a) and 94945(a) of the Code.

Other modifications are changes in grammar or syntax and are non-substantive.

Local Mandate

A mandate is not imposed on local agencies or school districts.

Small Business Impact

The proposed regulation will not have a significant adverse impact on small businesses.

Consideration of Alternatives

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the BPPVE would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.

Finding of Necessity

The BPPVE hereby finds that it is necessary for the health, safety and welfare of the people of California that this regulation apply to business.

Objections and/or Recommendations and Responses – 45-day Notice Period

These regulations were considered at the public hearing held on October 17, 2002 and oral testimony was presented by the organizations listed below. This oral testimony was also received in writing:

The California Association of Private Postsecondary Schools (CAPPS)
Governmental Advocates, Inc. (GA)

Additional written testimony was received from the following organizations:

California Institute for Clinical Social Work (CICSW)
Ja'onna's Medical and Laboratory Skills Training Schools of California and
Hawaii (JMLSTS of California and Hawaii)
California Design College (CDC)
ITT Educational Services, Inc. (ITT/ESI)
Legal Aid Foundation of Los Angeles (LAF of Los Angeles)

Comments received during the 45-day comment period/hearing and the Bureau's responses to those comments are grouped by section number with the acronym of the organization in parentheses following each comment.

The following recommendations and/or objections were made regarding the proposed action:

Section 76000

1. Comment:

Applicability. The proposed regulations reference §94944 and §94945. AB 201 also amended §94806, §94810, and §94825 of The New Reform Act of 1998, specifically as to new requirements for the Student Tuition Recovery Fund (STRF). The Bureau should include these sections as well in its proposed scope of regulatory review. (CAPPS)

Response:

The Bureau assumes the commentor refers to the first paragraph of section 76000, which specifies that the definitions that follow apply to Sections 94944 and 94945 of the Code and this chapter.

Sections 94806, 94810, and 94825 of the Code² are implemented at proposed sections in the regulations under the STRF (section 76215, for example) where they are referenced, but the definitions in section 76000 are not applicable to these sections of the Code. The terms under section 76000 are defined for use in

² Refers to the California Education Code.

Education Code sections 94944, 94945 and the chapter applicable to STRF (i.e., Chapter 7 of Division 7.5 of Title 5 of the California Code of Regulations). Because it would be inaccurate to make the amendment proposed in this comment, the Bureau is not amending this regulation.

Section 76000(a)

2. Comment:

Prepaid. The Bureau keeps the definition of prepaid.

CAPPS Recommendation:

We recommend that it be struck as not relevant. The original definition of prepaid was included to distinguish between tuition paid in advance and tuition owed. AB 201 abolishes this distinction and AB 2967 also does not recognize this distinction. (CAPPS)

Response:

The Bureau disagrees that Assembly Bill (AB) 201 (effective January 1, 2002) and AB 2967 (effective January 1, 2003) did not recognize this distinction. The definition of prepaid was retained in the Private Postsecondary and Vocational Education Reform Act at Section 94945(a)(1)(A) of the Code to prevent underreporting of tuition charged to students by schools and also particularly at section 94944(a)(1)(A) of the Code for STRF eligibility purposes. "Prepaid" is a necessary element of pecuniary loss because the student necessarily must suffer some form of monetary loss in order to be eligible for the STRF (see Education Code section 94944(a)). A student does not receive educational services until some form of payment is made either by the student directly or through a loan at the time of enrollment. As explained in the original statement of reasons for this regulation, prepayment refers to the amounts which the institution has contracted to receive or has actually received. Also, this is not inconsistent with the changes made by AB 2967, which requires all the STRF fees to be assessed as "tuition is paid or loans are funded" and "regardless of the portion that is prepaid" at Education Code section 94945. Therefore, the Bureau is not repealing this regulation.

Section 76000(c)

3. Comment:

Tuition. The Bureau's proposed definition exceeds the definition provided in the law. §94945 (2) states, "The amount collected from a new student by an institution shall be calculated on the basis of course tuition paid over the current calendar year."

Course tuition, for purposes of STRF collection, should be limited to the actual amount charged to each student for instruction. Tuition costs typically include instructional materials and equipment required by the student for that course.

§94945 (1) states: “The amount assessed each institution shall be calculated only for those students who are California residents and who are eligible to be reimbursed from the fund. It (referring to the amount assessed) shall be based on the actual amount charged each of these students for total tuition.”

This section of law clearly lays out that, for STRF purposes, there is a unique definition by which schools are expected to calculate and assess STRF fees. It is tuition multiplied by a specified dollar amount. By expanding the definition of tuition to include “other fees,” the Bureau may collect slightly more STRF funds, but it will create an illogical and contradictory regulatory framework under which schools have to operate.

The Bureau extends the plain meaning of charged tuition to include “any other fee required of the student in order for the student to receive a certificate of completion or diploma.” This proposed regulation does not reflect the law as signed into law under AB 201.

This is an exceedingly vague regulatory standard that is being proposed. This regulation as written will create confusion and misapplication of the law when the purpose of regulations is to clarify the law. Schools and the bureau staff will have a equally difficult time determining what “other fees” are required to complete a diploma (or degree program although it is not mentioned in the proposed language).

The Bureau’s proposed definition is also in conflict with other sections of the Reform Act (§94810 (2), §94814 (5), which list tuition as a separate fee.

The better regulation would be as follows: Tuition is defined as only those institutional charges that are defined as tuition in the course catalog and enrollment agreement. Or alternatively, Tuition is defined as the actual amount for instruction, instructional materials and student equipment costs as listed in the catalog and contract for educational services. (CAPPS)

Response:

“Other fees” as part of tuition are neither an addition nor a proposed change to the existing regulation. The proposed amendment limits the fees that could be attributed to tuition to those that are educationally related (i.e., those linked to a certificate of completion or diploma). Therefore, the proposed amendment restricts rather than expands the meaning of tuition currently in effect.

The proposed amendment does not purport to redefine tuition in its entirety. Its purpose, as stated in the statement of reasons, is to restrict the fees that can be included as tuition and to exclude supplies, the non-refundable application fee and the STRF fee from tuition.

The alternative definition of tuition proposed by the commentor as “only those institutional charges that are defined as tuition in the course catalog and enrollment agreement” would leave the term “tuition” open to the interpretation of each school throughout the State and would potentially lead to unfairness in the application of the law. This potential difficulty was pointed out in the original statement of reasons for this regulation. The assessment should be based on the full amount charged by the institution to cover potential losses to the Fund because an institution may characterize its charges in various ways. Some only charge a fee denominated as “tuition” which includes charges for equipment and materials furnished with instructional services. Others impose separate charges for equipment and materials and perhaps a variety of “fees.” If “tuition” were undefined, an argument could be made that only the fee which the institution labeled as “tuition” could be subject to an assessment. Appropriate assessments, thus, could be evaded by an institution which allocated its total charge for educational services to various other fees.

For the above reasons, the Bureau is not amending this regulation in response to this comment.

4. Comment:

The proposed revision of 76000(c) will define “tuition” as not including costs of room, board, or transportation. We feel the regulation either should not exclude these costs from ‘tuition’ or should include a formula for determining what these costs are per student across an entire student body.

Our situation is as follows: We are a school without walls with students across the State of California. Three times per year, the entire student body gathers for a two-day statewide convocation for which room, board, and transportation are provided for those students who have to travel the opposite end of the State for this event. The cost of this aspect of our educational program is included in what the student pays as ‘tuition.’

Two of these events are held in Berkeley and one in Los Angeles each year, so the Southern California students do twice as much travel as the Northern California students. Furthermore, the actual cost of this travel and lodging varies substantially from time to time depending on airline fares, food costs, and hotel costs. Were we able to determine and charge these costs to each individual student (a task we couldn’t reasonably do), the cost of this aspect of our program would not be distributed equally among all the students and would fall unfairly on those who have to travel. The participation of all students in these events is crucial

to the educational goals of our program, and each student benefits from the participation of all other students.

We would like to be able to continue to include these costs in what we quote the student as 'tuition.' Alternative to that, we would want the regulation to include a formula for determining tuition separate from these costs that does not vary from trimester to trimester and year to year and student to student." (CICSW)

Response:

Although, as in this case, room and board and transportation may be part of a school program, these costs cannot be considered part of tuition for STRF purposes. Tuition is generally understood to be the cost of actual educational services and not incidental costs that are not critical to the educational goals of the students. Many students who obtain instruction other than by correspondence also travel to and from a location and may incur room and board costs in some cases. These costs are not included as part of the definition of tuition in this regulation because this is not consistent with the intent of the STRF (see the definition of economic loss). The reasons for promulgating the original regulation are described in the response under comment #3. For these reasons, the Bureau is not amending this regulation.

5. Comment:

Tuition. In AB 2967 §94945(a)(2) states, "The amount collected from a new student by an institution shall be calculated on the basis of the course tuition paid over the current calendar year, based upon the assessment rate in effect when the student enrolled at the institution, without regard to the length of time the student's program of instruction lasts. For purposes of annualized payment, a new student enrolled in a course of instruction that is longer than one calendar year in duration shall pay fees for the Student Tuition Recovery Fund based on the amount of tuition collected during the current calendar year."

The proposed regulation language would use as the basis "the actual amount charged each student for instruction, instructional materials, equipment costs and any other fee required of the student in order for the student to receive a certificate of completion or diploma attesting to the completion of the instruction required for such certificate or diploma."

This does not support the section of the law that clearly states that the assessment shall be based on the amount of tuition collected during the current calendar year. In degree programs such as those offered at our colleges, there is a big difference between basing the assessment on "the amount of tuition collected during the current calendar year" as specified in the law and basing it on "the actual amount charged... for the student to receive a certificate of completion or diploma..." as the proposed language requires. (ITT/ESI)

Response:

The commentor is confusing the definition of tuition with the assessment formula under section 76120. Tuition cannot be defined as what a student pays because tuition is what the school charges for the educational services. Section 76120 addresses how the STRF fee is calculated. The Bureau is modifying section 76120 to reflect that each student will be assessed as tuition is paid or loans are funded on behalf of the student. This modification should address the commentor's concern. However, the Bureau is not amending the definition of tuition in response to this comment.

6. Comment:

The Bureau also needs to quit bending the English language and the laws to fit its own needs. The definition for the word 'TUITION' is a 'A fee for instruction.' Fees for books and supplies are just exactly that and are not by law or definition part of the tuition. Just check with any State college or university. As such, tuition must not include any fee charged to the student except the fee for instruction. Otherwise, you might as well include the cost of room and board or transportation and the STRF fee! When I got my AA Degree, BA Degree, and MS Degree, I had to purchase books and training supplies but they were never called tuition by any college or university! (JMLSTS of California and Hawaii).

Response:

The proposed amendment to this regulation does not redefine tuition in its entirety. The existing regulation already includes "other fees" as part of tuition; the amendment restricts those fees to those required of the student to receive a certificate of completion or diploma. In this manner "other fees" are linked to education. The amendment also excludes supplies, the non-refundable application fee and the STRF fee from tuition.

Please note, also, that reimbursement of a claim under Education Code section 94944(f)(1) must take into account either the total guaranteed student loan debt or the total of the student's tuition "and the cost of equipment and materials related to the course of instruction," whichever is greater. Therefore, the Bureau must necessarily include this language within the definition of tuition and is not amending this regulation in response to this comment.

Sections 76000(d)

7. Comment:

Regarding 76000(d), this section is not consistent with California law. No out of state student can be presumed to be and out of state students for more than a year. Even a UC campus can only charge out of state residence fees for a year.

After that they are presumed to be residents. This current definition of residency is inconsistent with residency law. If you changed the “or” to “and” on the second line of page 2 it would be all right. (LAF, Los Angeles)

Response:

The Bureau acknowledges the concerns in this comment and is withdrawing the proposed amendment.

Section 76000(f)

8. Comment:

Closure. The Bureau proposes a regulation that expands the eligibility for a student to file a STRF claim to those students whose institutions have moved a class without Bureau permission. This proposed regulation makes a material change in the State law governing eligibility for STRF filing.

We do not believe that the Bureau should be allowed to make what should be a legislative change via regulations.

The issue of expanding STRF eligibility was part of the negotiations of AB 201; several statutes of limitations were changed, which in fact expands the time that STRF claims can be filed. It is inappropriate and beyond the regulatory authority of the Bureau to bootstrap new eligibility for STRF claims via a regulation.

The Bureau’s conclusion that an institution has moved a class without permission (although there are applications pending with the Bureau for such approvals that linger for months and even years) is per se automatic grounds for a STRF refund is not supported by facts, history, or even theory.

Given the history of Bureau tardiness in approving applications, this proposed regulation would have the effect of creating a potentially large drain on the STRF for technical violations, which many times are the fault of the Bureau, not the school.

§94944(a)(v) already anticipated such a claim that a student may make about moving a class under its decline in the value or quality of a course.

To allow the Bureau to equate a school closure to moving a class without permission is without reason and rationale. This regulation has existed since at least 1996 and no STRF claims can be documented based on an unauthorized class move.

Whether a classroom is properly approved, compared to an entire institution closing, is comparable to saying that the deck chairs were not arranged properly on the Titanic as it sank.

STRF's main function is to assist students when schools close, not when a school moves a classroom. (CAPPS)

Response:

The amendment to this regulation is to correct crossreferences and is non-substantive. The current section 94873(h) of the Code does not differ substantively from the prior section 94319.4(h); therefore the amendment is consistent with the Act and is not a material change from prior law.

Section 94873 of the Code addresses circumstances in which a school moves class instruction more than five miles from the original location designated at the time of enrollment and provides three ways in which a school can comply with this provision; any of which satisfies compliance. The first one involves advance notification to students of the location change. Therefore, compliance with this provision can be accomplished by simply making this notification or providing a refund to students and should not present a difficulty. However, if schools fail to comply with current Education Code section 94873, then a classroom relocation without notice, approval by the Bureau or refund to students, may in all practicality become a closure for affected students. That is why the original statement of reasons justifying this section is still valid and applicable.

The reasons for promulgating section 76000(f) were described in the original statement of reasons for this regulation. In addition to the illustrative examples of closure set forth in the statute, an additional example of closure included the cessation of class instruction at a particular location and the moving of instruction to a site more than five miles away without the institution's compliance with section 94873 (formerly section 94319.4(h)).

The cessation of instruction at the site at which students are enrolled is tantamount to a closure. The moving of the instruction to a remote location may have no significance to students who are entitled to a full refund or other relief under Education Code section 94873 formerly section 94319.4(h).) These students should be entitled to immediate claims against the Fund to recoup their economic loss.

The reasons for promulgating this regulation still exist; therefore, the Bureau is not amending it any further.

Section 76000(g)

9. Comment:

Economic Loss. The Bureau's proposed regulation keeps the word "pecuniary loss," although it attempts to mitigate the definition of what is not pecuniary. Unfortunately, the use of a non-negative in regulations does not provide a clear answer to what is pecuniary.

The current definition allows for an argument that pecuniary means exactly what the Bureau attempts to say it does not mean.

CAPPS Recommendation: We suggest that the Bureau omit the word entirely. (CAPPS)

Response:

The proposed amendment is not a substantive change but a relocation from an existing regulation at section 76200(c). "Pecuniary loss" is part of the statute, therefore the Bureau is not deleting/omitting the term. Section 94944(a) of the Code states that the purpose of the Fund is to relieve or mitigate pecuniary losses suffered by any California resident who is a student of an approved institution and who meet the conditions set up in the statute. The definition, therefore, is consistent with the purpose of the statute in that it focuses on charges exclusively related to instruction, while excluding damages, such as emotional distress damages, that are in excess of the tuition or other educationally-related fees originally paid by the student. (See response to comment #10.) Therefore, the Bureau is not amending this regulation in response to this comment.

10. Comment:

Regarding 76000(g), the additional "pecuniary loss" is not better than out-of-pocket expenses. Also, the examples do not even include all the types of damages mentioned by the statute such as penalties and collections fees on the student loans, licensing fees, etc. All these items need to be included in the regulation. These are types of loss added by statute since the regulation was enacted. (LAF of Los Angeles)

Response:

"Pecuniary loss" is part of the statute (see Education Code section 94944(a)) as well as the original/existing regulation; therefore, it is not an addition. The proposed amendment to this regulation consists of (1) a relocation from a provision currently at section 76200(c), (2) the exclusion of the STRF fees from the definition of economic loss and (3) the repeal of "out of pocket" expenses so as not to

mislead applicants into believing that they could be reimbursed for expenses not related to instruction; i.e., diapers, pencils, etc.

However, the Bureau agrees that this regulation needs to be updated to reflect new categories in Education Code section 94944(f)(1) which were later added to the Reform Act after this regulation was originally adopted in 1992. The original text appears to track the original language in former Education Code section 94342(f) (now section 94944(f)(1)) relating to the amount the Bureau must pay on each claim. Therefore, the Bureau is adding “collection costs” and the following language to update this regulation:

“Economic loss shall also include the amount the institution collected and failed to pay to third parties on behalf of the student for license fees or any other purpose.”

The Bureau is also adding the word “penalties” as recommended by the commentor because under section 94944(f)(1) the Bureau must pay the “amount of the loss suffered by the student” if the claim is based upon the school’s failure to reimburse federally guaranteed loan proceeds.

Sections 76000(h) and (i)

11. Comment:

New student and Newly Enrolled Student. The Bureau’s definition of new student does not meet the requirements of AB 201. Any debate on this issue was cut off by the passage and enactment into law of AB 2967.

The definition contained in AB 2967 for new student is as follows: §94945(c) - For purposes of this section a “new student” means a student that signs their enrollment agreement on or after January 1, 2002.

CAPPS Recommendation: The Bureau should replace the proposed definitions of New Student and Newly Enrolled Student with the above AB 2967 definition of new student. (CAPPS)

Response:

The Bureau agrees with the comment that Assembly Bill (AB 2967) clarified the term new student. The proposed regulation at section 76000(h) is being deleted because the statute is self-executing. However, the Bureau is replacing section 76000(i) and clarifying that “newly enrolled student is a new student, as defined in section 94945” in response to this comment.

12. Comment:

Regarding 76000(h) and (i), before the word tuition on the last line of each of these two subsections, should be added the word “entire.” This is consistent with proposed new section 76215 (a) (see last paragraph) which indicates that the student is not eligible for STRF unless “your total charges are paid by a third party.” We have seen examples where a third party agency does pay part of the tuition but the students must get a Pell Grant if eligible and a student loan to pay the remainder of the tuition costs. Such people should be eligible for a STRF refund to the extent they used non-third-party funds to pay the tuition. These sections need to be changed to make the clear. (LAF of Los Angeles)

Response:

Assembly Bill (AB 2967) makes it unnecessary to define the terms “new student” in regulations, therefore section 76000(h) is being deleted. The terms “newly enrolled student” in regulations are being replaced and redefined in response to comment #11, above. Therefore, this proposed amendment is no longer relevant in this context.

13. Comment:

New Student and Newly Enrolled Student. AB 2967 defines a new student as follows: §94945(C) - For purposes of this section a “new student” means a student that signs their enrollment agreement on or after January 1, 2002.

The regulations should define a New Student and Newly Enrolled Student in accordance with the definition set forth in AB 2967.

A question that arises here is how do we treat reentering students? For example the first time a student enrolls in one of our colleges the student signs an enrollment agreement and is assessed the STRF fee. If for any reason the student finds it necessary to dropout of the college prior to graduation and then returns, a new enrollment agreement will be signed. Under the suggested definition there is no provision for a reentering student and the potential exists for a student to be assessed the STRF fee every time an enrollment agreement is signed, even if the enrollment agreements are for the same program at the same school. (ITT/ESI)

Response:

Regarding the definitions of “new student” and “newly enrolled student,” please see response to Comment #11.

On the issue of students who drop out and later return, the Bureau believes the statute is clear on the following questions:

- 1) Students who disenroll do not get the STRF fee refunded (Education Code section 94945(a)(1)(B)).
- 2) Students have to pay as tuition is paid (Education Code section 94945(a)(1)(A)).

Therefore, a student who disenrolls and later enrolls again must pay the STRF fee again.

Section 94945(a)(1)(A) of the Code states, in part, “STRF is based on the actual amount charged each student for total tuition costs regardless of the portion that is prepaid, and shall be assessed as tuition is paid or loans are funded on behalf of the student, based on academic term.” Because the statute requires that the student pay the STRF fee as tuition is paid, the Bureau interprets this to mean that every time the student enrolls he/she must pay the STRF fee.

Section 94945(a)(1)(B) of the Code specifies further that the student’s subsequent disenrollment at the institution does not relieve the institution of the obligation to pay the fee to the Bureau and is not the basis for a refund of the fee to the student. Therefore, it is clear that the STRF fee is neither refunded nor withheld from the Bureau upon disenrollment by the student.

The Bureau believes that section 94945 of the Code is clear on this question; therefore, no regulation is necessary.

Section 76115

14. Comment:

Eligibility for STRF. The proposed regulation is defeated by the passage of AB 2967. New §94945(a)(1)(A) states, in part, regarding the amount (STRF fee): “It shall be based on actual amount charged each of these students for total tuition cost, regardless of the portion that is prepaid, and shall be assessed as tuition is paid or loans are funded on behalf of the student, based on academic term.”

This change in the law allows students the option of paying the full annual STRF fee at once upon enrollment or partially as tuition is charged or as a loan is funded.

The proposed regulation if it deemed necessary to exist at all should state as follows: “A student who does not pay his or her STRF fee payment at the time of enrollment or as tuition is charged or as their loan is funded and the institution elects not to pay the STRF fee on behalf of the student, is not eligible to file a STRF claim. (CAPPS)

Response:

The Bureau is withdrawing the proposed Section 76115 in response to this comment and comment #15.

15. Comment:

Regarding 76115, there is not point to this regulation because the school is required to collect the money. Also this creates a tremendous loophole. If the student does not pay for the STRF the same day s/he pays for tuition, then s/he would not be covered even if s/he paid it later. Tuition and other fees are not always paid at one time so there should not be a loophole, which would deprive unsuspecting students of STRF coverage. This section needs to be eliminated. (LAF of Los Angeles)

Response:

The Bureau is withdrawing the proposed Section 76115 in response to this comment and comment #14.

Section 76120(a) and (b)

16. Comment:

Amount of Assessment. The Bureau should make clear in its regulation that rounding concept used in this section is intended to round down as well as up. An example of rounding down is that tuition of \$2,400 should be rounded to \$2,000 and tuition of \$2500 should to rounded to \$3,000. (CAPPS)

Response:

The Bureau is not amending this regulation because rounding to the *nearest* thousand dollars means up or down, whichever is nearest. However, to ensure this is clear, the Bureau is providing examples of rounding up or down in the new Assessment Reporting Forms 03, 04, 05, effective January 1, 2002, which are replacing the STRF 03. See comment #39 where these changes are outlined in greater detail.

Section 76120 (c)

17. Comment:

The current regulation assessing all new institutions a total of 16 quarters or four years of assessments at the time of bureau approval of a particular institution is not

possible for the Bureau to implement in a fair and reasonable manner and should be struck.

This regulation in effect asks an institution to pay four years of student STRF fees in advance. To fulfill this regulation the institution and the Bureau would have to have a crystal ball which predicts how many students will be enrolling at the institution and what their tuition costs would be in the years ahead.

This requirement is impossible for schools to comply with and for the Bureau to enforce.

AB 201 shifted STRF fee payment responsibility from the Schools to the students. While it is clearly a school responsibility to collect the STRF fee and forward it to the State, it is the students' responsibility to pay it.

This regulation as currently written does not reflect the changes incorporated in AB 201 and AB 2967 and should be struck. (CAPPS)

Response:

This proposed regulation to which this comment refers is being renumbered to subdivision (d) to accommodate the proposed adoption of a new regulation. The proposed amendment is not substantive. The original reasons for having this regulation are still valid because there is still no clarity in the statute regarding what is considered a "newly approved" institution for assessment purposes (see Education Code section 94945(a)(6)). Section 94945(a)(6) of the Code provides that, unless additional reasonable assessments are required, assessments are not levied if, as of June 30 of the prior fiscal year, the STRF balance exceeds \$1.5 million for the degree-granting postsecondary educational institution account or \$4.5 million for the vocational educational institution account or *unless* the school is "newly approved."

The Council, predecessor to the Bureau, adopted the regulation based on the practice of the Postsecondary Division of the Department of Education (see former section 94343, now section 94945 of the Code). Assessments on new schools for a 16-quarter period were considered reasonable because "after 16 quarters, the character of the institution may be sufficiently established for the purpose of weighing its potential risk to the Fund (STRF). All institutions should be treated equally to promote fairness; thus, all should pay assessments for a total of 16 quarters."

However, on further review, the Bureau is making a technical amendment to this regulation to reflect the current amounts authorized by current law at Education Code section 94945(a)(6) (1.5 million for the degree-granting postsecondary educational institution account and 4.5 million for the vocational educational institution account) that constitute the limits for levying assessments to conform

this regulation with current law. In addition, a crossreference is being made to the section that defines “continuing students” at Section 76000(h).

Section 76130

18. Comment:

The Bureau commits to sending out the Quarterly Assessment Report during the last month of each calendar quarter.

CAPPS Recommendation:

We recommend that the wording of this regulation be changed to reflect that the report will be sent out at the beginning of the last month of the calendar quarter. This will enable institutions to have time to accurately prepare the report. (CAPPS)

Response:

This comment refers to subdivision (a) of the proposed regulation regarding the time set for the Bureau to send out the Quarterly Assessment Report, which is being replaced by the STRF Assessment Reporting Forms #STRF-03, 04 and 05, effective January 1, 2002. The Bureau believes this regulation as written gives sufficient time for schools to gather the information necessary to submit data and STRF fees to the Bureau in a timely manner because Section 76130(b) gives schools 30 days to submit the STRF fees and the STRF Assessment Reporting forms. Additionally, schools may prepare and gather the data in anticipation of receiving the forms. The Bureau is not amending this regulation in response to this comment. However, see response to comment #39 regarding modifications to the reporting form.

19. Comment:

STRF is a form of insurance for the student so let insurance companies sell it and collect the fees for it and let the schools get back to the business of teaching. This would do away with the need for Form #STRF-03. By the way, some schools are on the trimester system and quarterly reports are absurd! If we have to live by your cumbersome system, then certain waivers should be available to allow for schools that have enrollment schedules other than quarterly. If a school proves that it only enrolls students three times a year, then they should be allowed to report three times a year. (JMLSTS of California and Hawaii).

Response:

The Private Postsecondary and Vocational Education Reform Act of 1989 as amended mandates that the students pay and the schools collect the STRF fee

(see Education Code sections 94944 and 94945) for purposes of the Student Tuition Recovery Fund.

Allowing a Quarterly Assessment Report to be filled in and submitted in accordance with a school's enrollment schedules would be burdensome to administer due to the large number of schools throughout the state subject to STRF and their varying academic schedules. This regulation requires schools to complete a report, regardless of the enrollment period in which the school operates, showing the amounts of tuition charged, paid and collected during the four months comprising the quarterly period. This assists the Bureau in effectively monitoring compliance for all schools. The Bureau fails to see how this should impact schools on unusual operating schedules because the amount remitted will be based upon what is paid by the students and collected by the schools during the reporting period, regardless of the academic schedule. Therefore, the Bureau is not amending this regulation. However, the Bureau is modifying the Quarterly Assessment Report, Form #STRF-03, in response to testimony (see response to comment #39) and is now titled STRF Assessment Reporting Forms 03, 04 and 05 (see Exhibit A).

Section 76130(b)

20. Comment:

We recommend that the wording of this section of the regulation be corrected to reflect that the last day of October is the 31st, not the 30th as shown in the proposed regulation. (ITT/ESI)

Response:

The date in this regulation was in error. The date was meant to be the last day in October, which is the 31st and not the 30th. The Bureau is amending this regulation to make this correction.

Section 76130(b)(2)

21. Comment:

Proposed Regulation 76130(2). This proposed regulation imposes a penalty fee of 20% of the STRF fee owing on "delinquent schools."

This regulation, for the first time, imposes a percentage fine on late-paying schools. This regulation also imposes a rationale that there are no questions concerning STRF payments and, if there are, those questions have been answered on a timely basis by Bureau Staff. In the real world, neither one of these assumptions are necessarily true.

There are a number of circumstances why institutions may be late paying STRF fees, including the offer of offsetting fee payments that the Bureau uses to refund monies to schools without writing a check.

AB 201 has amended §94806(e) as follows: “An institution that has not paid all amounts owed to the Bureau under §94945 shall report to the Bureau within 30 days on its plan to become in these payments.”

In light of the statutory language governing the duty of schools to report and the specific timeframe that is allotted to institutions to report to the Bureau on their plan to become current, strict imposition of a 20% penalty for being late does not fit the statutory scheme as laid out by the Legislature.

CAPPS Recommendation: We recommend that this provision be struck as conflicting with 94806(e) or, in the alternative, that the Bureau incorporates these provisions in any penalty proposed. (CAPPS)

Response:

This comment refers to proposed regulation Section 76130(b)(2). The Bureau is withdrawing this regulation in response to this comment.

Section 76130(c)

22. Comment:

Proposed Regulation 76130. While this regulation is a reprint of an existing regulation, we would be remiss in not pointing out that the closure of a school and the cessation of instruction can occur on different dates.

CAPPS Recommendation: We recommend that the Bureau replace the current language with the following: “An institution that closes or stops all instruction shall remit to the Bureau all STRF assessments collected from students within seven working days of closure or instruction cessation, whichever comes first.” (CAPPS)

Response:

The amendment to this regulation is not substantive. It is not necessary to make further amendments as suggested by this comment because closure is defined at section 76000(f). This definition, in turn, refers back to sections 94873 and 94944(a)(1)(B) of the Code. Section 94944(a)(1)(B) provides for the multiple occurrences that constitute closure. The cessation of instruction is both the common element of the definition at Education Code section 94944 and the earliest indicator of closure. Swift payment to the Bureau is still considered as necessary today as when the original regulation was promulgated to assure that

funds remain available and are not seized by other creditors. Therefore, the Bureau is not amending this regulation.

Section 76200(c)

23. Comment:

Application for Payment. The Bureau compounds its issues raised in the previous discussion on economic loss in this paragraph by keeping the issue of “pecuniary loss” in the definition and eliminating specific costs of tuition, equipment and materials, the ultimate effect is to leave too much discretion in the Bureau’s hands as to the actual worth of a STRF claim. This is a regulatory section that deserves specificity, not vagueness. (CAPPS)

Response:

The costs of tuition, equipment and materials have not been eliminated. The deleted language in this regulation was relocated and incorporated as part of the definition of economic loss at section 76000(g). Therefore, in figuring out the student’s economic loss, the costs of tuition, equipment and materials must be included, as required by the definition of economic loss. The Bureau is amending this regulation to make a crossreference to the definition of economic loss at Section 76000(g) for ease of use, in response to this testimony.

Regarding the comment on “pecuniary loss,” this concept is part of the statute, specifically see section 94944(a) of the Code. Therefore, the Bureau is not amending this regulation as recommended in this comment. (See responses to comments #9, #10 and #24.)

24. Comment:

Regarding 76200(c), the portion deleted in the proposed regulation should be restored and the forms of loss added by subsequent amendments to the STRF portion of the statutes such as collection fees and penalties should be added as well licensing fees and other fees collected by the school to pay over to a third party with were not paid. The specific items payable as economic loss were defined so as to exclude the collection of other types of economic loss such as the cost of child care, etc. The definition was narrowed in exchange for the students to be able to collect, unpaid refunds from the STRF. Also, the statute so limits the amount of loss that can be collected to the loans and interest and fees or the tuition, etc. The regulations should at least be consistent. (LAF of Los Angeles)

Response:

Section 76200(c) is not a substantive change from the existing regulation. It is not necessary to amend this regulation further because the language that establishes

the limitation to the amount of a claim was not eliminated, but relocated to section 76000(g). This regulation, as proposed, does not exclude consideration of other fees because tuition is defined at section 76000(c) and tuition includes “any other fees required of the student in order for the student to receive a certificate of completion or diploma attesting to the completion of the instruction required for such certificate or diploma.”

The commentor’s concerns are addressed by a proposed amendment to economic loss in response to comment #10 where the proposed language is located. Therefore, it is not necessary to amend, and the Bureau is not amending, this regulation.

Section 76200(d)

25. Comment:

Paragraph (c). This paragraph allows the State Attorney General, the Bureau, or any law-enforcement agency to collect its fees from the STRF if it cannot collect from opposing parties, in a B&P Code 17200 action.

CAPPS Recommendation: We recommend that, on a policy basis, this paragraph should be struck. The STRF fund is chronically under funded and we believe that taxpayer supported institutions should not be able to deplete the STRF if they cannot recover enforcement costs from an offending party. Code 17200 requires a discouragement of profits if the suit is successful. Allowing public enforcement agencies, whose costs are already covered to turn to the STRF to recover costs, hurts no one except for those students who have already been harmed.

This paragraph puts students last in their attempts to recover their lost tuition and we believe that this paragraph sends absolutely the wrong message as to consumer protection. (CAPPS)

Response:

The Bureau believes this commentor is referring to subdivision (d) and not (c) of section 76200. The amendment to section 76200(d) is not substantive. AB 201 and AB 2967 did not affect this area; therefore, the Bureau is not amending this regulation any further.

Section 76210

26. Comment:

Payment of Claims. Under AB 201, §94944(g)(1) “The Bureau shall negotiate with a lender, holder, guarantee agency, or the United States Department of

Education for the full compromise or write off of student loan obligations to relieve student of loss and thereby reduce the amount of student claims.”

The proposed regulation still uses the permissive “may,” not the updated “shall.” (CAPPS)

Response:

The Bureau agrees with this comment and is amending section 76210(a) by changing the word “may” to “shall” to make it consistent with section 94944(g)(1) of the Code.

Section 76215

27. Comment:

This is getting ridiculous! The enrollment agreement is already to full of required material for the student to wade through. Quit adding more. Do you want to end up with a ten-page document??? (JMLSTS of California and Hawaii)

Response:

The addition of the language in the enrollment agreement resulted from requirements added by AB 201, Education Code sections 94810(a)(10), (11) and 94825(a) and (b)(1), (2). However, the Bureau is amending this regulation in response to this comment and to comments #28 and #29 (see proposed new language at section 76215).

Sections 76215(a) and (b)

28. Comment:

Student Tuition Recovery Fund Disclosures. (a) This proposed regulation is wordy.

CAPPS Recommendation: We recommend the following language: “If you are a California student resident and pay tuition directly or through loans you must pay a state imposed STRF fee. The only exceptions are where your educational institution pays the fee on your behalf or you are a third-party payer beneficiary.”

We are concerned that student enrollment agreements remain as succinct as possible.

In Lieu of the proposed language, CAPPS offers the following: California has the STRF to assist students in recovering lost tuition if their BPPVE-approved school closes. You may be eligible to file a STRF claim if you were a California

resident, enrolled in an approved California school that offered onsite instruction and/or correspondence instruction, you paid tuition and STRF fees and lost tuition as a result of the following:

4. “The school did not live up to its agreement for the course of instruction”

This phrase is not supported by Statute as a cause for filing a STRF claim under §94944(a)(1)(A)(i) – (vi). It is totally based on a subjective opinion and not capable of stating a factual basis for a claim on its face. This phrase reaches beyond the scope of the statute.

CAPPS Recommendation: CAPPS recommends that this language be deleted. (CAPPS).

Response:

The Bureau recognizes that the statement provided in this section is rather long. However, the Bureau is not adopting the language proposed in this comment because the Bureau is attempting to include all necessary disclosure and eligibility requirements in accordance with Education Code sections 94810(a)(10), (11), 94825(b), and 94944 while, at the same time, gearing the statement toward the students.

Closure of the school, for example, is not the only condition under which a student is entitled to file a claim (See Education Code section 94944(a)). Also, the inclusion of a statement that if the school paid the fee on behalf of the student may mislead the student into believing that payment of the STRF fee is not his/her responsibility, which is contrary to the requirement in Education Code section 94810(b)(11). The Bureau believes that the disclosure needs to be as specific as possible in regards to the eligibility requirements for STRF and the consequences to the student if the STRF is not paid.

The recommendation to delete item #4 refers to subdivision (b) of section 76215(b). The Bureau is amending the language in response to this comment and comment #30 to parallel more closely the statute to which it refers, (see Education Code section 94944(a)(1)(A)(iv)). “The school did not live up to its agreement for the course of instruction,” is being replaced with “The school’s breach or anticipatory breach of the agreement for the course of instruction.”

Taking the above into consideration, the Bureau is streamlining this statement as much as possible in order to be responsive to this comment and comments #27, #29 and #30 (see proposed language at section #76215(a)).

29. Comment:

Proposed regulation 76215 Student Tuition Recovery Fund Disclosures.

(a) We believe the proposed disclosure is too long and does not address

reentering students (see §76000(h)). As well §76120(a) states the fee applies to the total charge “regardless of the portion which is prepaid.” This is in direct conflict with the disclosure statement contained in this section.

We suggest the following language: “You must pay the state-imposed fee for the Student Tuition Recovery Fund (“STRF”) unless: (a) you are not a California resident, or (b) your total program cost will be paid directly to the school by a third-party and you will have no obligation to repay any of the total program cost to the third party. If you are not required to pay the STRF fee, you are not eligible for protection under or recovery from the STRF.” (ITT/ESI)

Response:

The Bureau agrees with the comment that section 76120 needs to address what the commentor refers to as “reentering students.” Therefore, the Bureau is proposing to adopt a definition of “continuing students” to designate those students who signed an enrollment agreement prior to January 1, 2002 and who are not “new students,” as defined by AB 2967 (section 94945(a)(1)(C) of the Code). See new Section 76000(h).

The Bureau is also adopting subdivision (c) at section 76120 in order to specify the STRF fees in existence before January 1, 2002 (AB 71, Chapter 78, Statutes of 1997) at the assessment rate for “continuing students” (see AB 71, Chapter 78, Statutes of 1997.) This regulation reads as follows:

Section 76120. Amount of Assessment

(c) Continuing students shall be assessed the fee in existence prior to January 1, 2002 as follows:

- (1) Two dollars and fifty cents (\$2.50) per student for a total course cost of one cent (\$0.01) to two thousand nine hundred and ninety nine dollars and ninety nine cents (\$2999.99) inclusive.
- (2) Three dollars and fifty cents (\$3.50) per student for a total course cost of three thousand dollars (\$3,000) to five thousand nine hundred and ninety nine dollars and ninety nine cents (\$5,999.99).
- (3) Four dollars and fifty cents (\$4.50) per student for a total course cost of six thousand dollars \$6,000 to eight thousand nine hundred and ninety nine dollars and ninety nine cents (\$8,999.99).
- (4) Five dollars and fifty cents (\$5.50) per student for a total course cost of nine thousand dollars \$9,000 or more.

The Bureau disagrees with the comment that the disclosure statement is in conflict with section 76120(a). The eligibility requirements for STRF require tuition to be prepaid in order for the student to be eligible for reimbursement from the STRF (see Education Code section 94944(a)(1)(A)). See response to Comment #2.

The commentor's proposed language fails to address the purposes, operation, and eligibility requirements of the STRF as required by Education Code section 94825, which is implemented by section 76215. For example, the commentor's proposal does not address the eligibility criteria located at Education Code section 94944(a)(1)(A). Regarding the length of the proposed disclosures, the Bureau believes that the disclosures need to be as specific as possible in regard to the eligibility requirements for STRF and the consequences to the student if the STRF is not paid. See also response to comment #28. Therefore, the Bureau is not making the changes to the disclosure statement proposed by this comment.

Section 76215(b)

30. Comment:

We suggest the following language be used in the first paragraph of this section, in Item #4 and in the final paragraph in this section: "The State of California created the Student Tuition Recovery Fund ("STRF") to relieve or mitigate economic losses suffered by California residents who were students attending school approved by the Bureau for Private Postsecondary and Vocation Education."

4. The school breached its agreement for the course of instruction.

"You may also be eligible for STRF is you were a student that was unable to collect a court judgement rendered against the school for violating the Private Postsecondary and Vocational Education Reform Act of 1989. (ITT/ESI)

Response:

The Bureau is amending the first paragraph of this section as recommended in this comment by replacing "The Legislature" with "The State of California."

Regarding item #4, the Bureau is adopting the statutory language in order to avoid any confusion in interpretation and to include "anticipatory breach" as required by Education Code section 94944(a)(1)(A)(iv). Section 76215(b)(4) now reads: "The school's breach or anticipatory breach of the agreement for the course of instruction."

The Bureau is adopting the recommended amendments to the disclosure regarding the eligibility for STRF and the recovery based on a judgment. The word "rendered" is added after "judgment" and the word "for" replaces the word "in" after "school."

31. Comment:

Regarding 75215(b), at the end of page 11, the wording must be changed to reflect the statute. The first four words of the paragraph at the bottom of page 11 must be deleted. The sentence should start "You are also." These words should be inserted for those deleted. Also, regarding the same sentence, the word "in" after the words school and before the word "violation" on the second line of the sentence, should be deleted and in its place should be the word "for"...This change is needed for the sentence to make sense. The proposed regulation uses the word "may." The statute is not permissive. If the judgment cannot be collected, the student absolutely can recover from the STRF. (LAF of Los Angeles)

Response:

The Bureau assumes this comment refers to the disclosure paragraph that begins with the words "You may also be eligible" and the recovery based on a judgment.

The Bureau is modifying this regulation in response to this comment and comment #30 by adding the word "rendered" after "judgment" and deleting the word "in" after "school" and replacing it with the word "for." However, the Bureau is not changing the words "you may also be eligible" for the recommended "you are eligible..." in this comment because students are not automatically eligible for STRF if they are unable to collect a court judgment rendered against the school for violation of the Act. Education Code section 94944(a)(B)(2) also requires *that the student certify that the judgment cannot be collected after diligent collection efforts*. The disclosure statement is not intended to be exhaustive, rather merely intended to provide notice of eligibility requirements. Further, whether the student complied with the "diligent collection efforts" requirement is within the discretion of the Bureau, to be decided on a case-by-case basis. Changing the language as recommended in this comment could mislead students into believing that they are automatically eligible.

Therefore, the Bureau is retaining the words "you may also be eligible" in this statement.

Section 76215(b)(2)

32. Comment:

Regarding 76215(b)2, this regulation is also inconsistent with the statute. Both refunds owed to the student and charges owed to third parties are covered by STRF. But the proposed regulation says refund charges like they are one thing, which they are not. The word "or" should be inserted between the words refunds and charges. Also the words "with whom you have a separate agreement to repay" should be eliminated because these words restrict the scope of the statute and an

agreement to repay is not required to recover under STRF. This section is meant to cover licensing fees and there is no written agreement for same. In the regulation there should be included the types of things that are suppose to be covered like licensing fees and separate fees for equipment, etc. Also it should be clear that these are examples of charges and do not refer to refunds. The refund applies to the school not paying the refund owed to a student when he or she drops out, etc. The phrase referring to third parties does not modify the word refund only the word charges. My bill added this provision so I am clear on the meaning of this section (LAF of Los Angeles).

Response:

The Bureau is amending this regulation to conform with statutory language in Education Code section 94944(a)(1)(A)(ii) and in response to this comment. Therefore, the Bureau is changing the language to reflect the statute.

The regulation now reads as follows: "The school's failure to pay refunds or charges on behalf of a student to a third party for license fees or any other purpose, or to provide equipment or materials for which a charge was collected within 180 days before the closure of the school."

Section 76215(b)(3)

33. Comment:

Regarding 75215(b)3, this regulation is also inconsistent with the statute. The regulation only refers to the failure to reimburse funds in excess of tuition and other costs. But the statute also protects the student's failure to receive proceeds or reimbursements in accord with the law. So it protects the student form any illegal withholding or inaccurate computation of loan proceeds which involve money owed to the students. The regulation should include the same protections and should not limit the scope of the statute. (LAF of Los Angeles)

Response:

The Bureau is amending this regulation to conform with statutory language under Education Code section 94944(a)(1)(A)(iii) and in response to this comment. The regulation now reads as follows: "The school's failure to pay or reimburse loan proceeds under a federally guaranteed student loan program as required by law or to pay or reimburse proceeds received by the school prior to closure in excess of tuition and other costs."

Section 76215(b)(4)

34. Comment:

In particular, CDC is concerned about the STRF disclosure language found in section 76215(b)4. This subsection required schools to disclose and allows a student to file a STRF claim in the following circumstance:

“The school did not live up to its agreement for the course of instruction.”

Making such a disclosure will force the STRF administrators to adjudicate every complaint a student may have. This language is vague and serves as an invitation to file a claim every time a student is unhappy. We recommend that this language be stricken from the regulations. (CDC)

Response:

The Bureau is amending this regulation to conform with statutory language and in response to this comment and comments #28 and #30. Please see text of the regulation at comment #28.

35. Comment:

In AB 201 (Chapter 621, Statutes of 2001), Section 94944 of the Education Code (1)(iv) was amended to provide that a STRF claim could be made for “The institution’s breach or anticipatory breach of the agreement for the course of instruction.” The legislative language failed to define what constitutes a “breach or anticipatory breach,” as well as the process for making a definitive finding that a breach occurred. As is common practice, the regulatory process is necessary to clarify what is in statute. Unfortunately, the language proposed by the BPPVE is even more ambiguous than current law and fails to define what constitutes a “breach or anticipatory breach,” or the process for making a definitive finding that a breach occurred. For example, an institution may legitimately be found to be in breach of an agreement if they canceled a course without adequate reason prior to its conclusion or went out of business. However, as the regulation is currently drafted, a student could claim that they did not learn what they believed they should learn, and claim that the institution was therefore in breach. In the absence of a court or administrative body making a definitive finding, the proposed standard could result in extensive litigation, and/or, place the STRF fund in jeopardy because students would be able to make baseless claims. The proposed regulation should be amended to clarify what constitutes a “breach or anticipatory breach” and the process for making a definitive finding of a “breach or anticipatory breach.” The commentor also concurred with CAPPS testimony on this section (see Comment #28). (GA).

Response:

See response to comments #28, #30 and #34.

The Bureau is modifying this regulation to reflect more closely the statutory language at Education Code section 94944(a)(1)(A)(iv). Regarding the request to clarify the meaning of the terms “breach” or “anticipatory breach”, the purpose of this regulation is to provide a disclosure statement for schools to use in the schedule of student charges. This was made a requirement with the passage of AB 201 (see section 94825(b) of the Code). This regulation accomplishes this purpose. Therefore, it is not necessary to amend this regulation further.

Section 76215(b)(5)

36. Comment:

Regarding 76215(b)(5), its current wording does not accurately reflect the law. Thirty days is the presumed period of decline. If the decline happened before that 30-day period, the director must determine the beginning date of the period of decline and if the student dropped out after that date, s/he is entitled to file a STRF claim. The following phrase should be added after the word “or” on the second line: “if the decline began earlier than thirty days prior to closure, the period of decline determined by the Bureau.” The remainder of the sentence after the word “or” in the proposed regulation should be eliminated. (LAF of Los Angeles)

Response:

The Bureau is amending this regulation in response to this comment and adopting language that reflects the statute (Education Code section 94944(a)(1)(A)(v)). The regulation now reads as follows: “There was a decline in the quality of the course of instruction within 30 days before the school closed or, if the decline began earlier than 30 days before the closure, the period of decline determined by the Bureau.”

Section 76215(b)(6)

37. Comment:

Regarding 76215(b)(6), the regulation is narrower than the statute, which also includes fraud committed during the program of institution. The words “or during the program” should be added at the end of the sentence to make the regulation consistent with the statute. (LAF of Los Angeles)

Response:

The Bureau is amending this regulation in response to this comment by adding the words “or program participation” to more closely parallel the statutory language at Education Code section 94944(a)(1)(A)(vi) as follows: “The school committed fraud during the recruitment or enrollment or program participation of the student.”

38. Comment:

Section 76215(b)(6). In AB 201 (Chapter 621, Statutes of 2001), Section 94944 of the Education Code (1)(iv) was amended to provide that a STRF claim could be made for “The commission of a fraud by the institution during the solicitation or enrollment of, or during the program participation of, the student.” The legislative language failed to define what constitutes “fraud by the institution” and the process for making a definitive finding that fraud occurred. As is common practice, the regulatory process is necessary to clarify what is in statute. Unfortunately, the language proposed by the BPPVE is even more ambiguous than current law and fails to define what constitutes “fraud by the institution,” or explain the process for making a definitive finding that fraud occurred. For example, there may be some factual situations where an institution would be found to commit fraud if they enrolled a student in a particular program and then failed to offer said program. However, as the regulation is currently drafted, a student could claim that the institution committed fraud if they failed to provide instruction for a single aspect of a larger subject matter in a single course while they were enrolled in a program. More importantly, the regulations fail to specify what the process is for making a definitive finding that fraud occurred. By not making the determination of fraud dependent upon there being some judicial finding, this regulation could result in extensive litigation, and/or, place the STRF fund in jeopardy because students would be able to make baseless claims. The proposed regulation should be amended to clarify what constitutes “fraud by the institution” and explain the process for making a definitive finding of fraud. (GA)

Response:

Regarding the request to clarify the meaning of the term “fraud” and explain the process for making a definitive finding of fraud, the purpose of this regulation is to provide a disclosure statement for schools to use in the schedule of student charges. This was made a requirement with the passage of AB 201 (see section 94825(b) of the Code). This regulation accomplishes this purpose. The Bureau has elected not to expand the meaning of fraud at this time and to continue to make this determination on a case-by-case basis. Therefore, the Bureau is not amending this regulation.

Exhibit A:

39. Comment

In addition to the above comments and suggestions which relate directly to the proposed regulations (see comment #30), I would also like to comment on Exhibit A, the Quarterly Assessment Report. First, on page 2 of the Instructions, Item 3 requires the “total course cost rounded up to the nearest \$1,000.” In many cases, this will be an impossible number to determine as it will vary by student based on the number of courses taken and when, during the calendar year, the student begins.

Also, the Example (line number 3) shows total course cost for a three year course. This is contrary to §94945(a)(2), which bases the course cost on the amount collected during a calendar year. (ITT/ESI)

Response:

Regarding the comment on Exhibit A and the Example included therein. The Bureau is replacing the Quarterly STRF Assessment Report, Form #STRF-03, in its entirety in response to this comment and to clarify and conform to the requirements under AB 2967.

Specifically, the title of the form is now “STRF Assessment Reporting, Forms #STRF-03, 04 and 05, effective January 1, 2002.” Three forms are necessary because AB 2967 requires three different assessment rates. The STRF Assessment Reporting, Form STRF-03 captures data for continuing students who are assessed at the rate before January 1, 2002; Form #STRF-04 captures the data for students assessed at the rate for the duration of 2002, and Form #STRF- 05 captures the data for students assessed at the rate commencing with January 1, 2003. Also, the assessment for new students (Forms #STRF-04, 05) will no longer be reported by course or program but by total revenue paid by the student and collected by the school.

Exhibits B and C:

40. Comment:

I have the same objection to the description of those eligible for the STRF in the proposed written material as I presented in response to the regulations which narrowed the scope of the statute in many instances. The section of the STRF notice at the bottom of page one must be changed to conform to the law. I have the same objection to the Student Tuition Recovery Fund Are you Eligible? Because it cuts off the rights of large groups of students who are covered by the statute. It is obvious whoever did this summary did not understand what the STRF is meant to cover. (LAF of Los Angeles)

Response:

Regarding the language describing eligibility criteria in the Form #STRF-04 (now #STRF-06) "Notice and Explanation of Student Rights Under the Student Tuition Recovery Fund," the Bureau is amending the language in both the English and Spanish versions in response to this comment. The language is being amended consistent with the changes adopted for the disclosure notices for comments Nos. 28, 30, 32, 33, 34, 36, and 37.

The Bureau assumes the comment regarding "the proposed written material" refers to Exhibits B and C to the sections that describe the criteria that makes a student ineligible for STRF and the objections regarding students having a separate agreement to repay third party-payers. The Bureau is removing the language regarding California residency and prepayment of the STRF fee in response to this comment. (See also responses to comments #7 and #15). However, the Bureau is retaining the language regarding third-party payers. Section 94945(a) of the Code states that when there is no separate agreement to repay between the third-party payer and the student, students who receive third-party payer benefits for their institutional charges are not eligible for benefits from the STRF. Section 94945(a) of the Code states: "A student who receives third-party payer benefits for his or her institutional charges is not eligible for benefits from the Student Tuition Recovery Fund." Further, section 94945(a) defines third party payers as: "an employer, government program, or other payer that pays a student's total charges directly to the institution **when no separate agreement for the repayment of that payment exists between the third-party payer and the student.**" (Emphasis added.) This is made clear in the proposed language in the disclosure under section 76215(a)(2) to clarify that only students who have a separate agreement to repay are eligible for STRF under this provision.

General:

41. Comment:

The commentor complains about the prior Council for Private Postsecondary and Vocational Education (Council) and his dissatisfaction of the Council's poor performance in approving quality schools. He states that "this same Council approved schools who ripped off students then went out of business and now my school is asked to pay for their bad debt with higher STRF rates and the time and accounting necessary to perform the accounting for the Bureau.

He further states "IF THE BUREAU WANTS TO COLLECT A 'HEAD TAX' ON EACH CALIFORNIA CITIZEN WHO WANTS TO ATTEND A PRIVATE SCHOOL, THEN LET THE BUREAU COLLECT THAT TAX DIRECTLY FROM THE STUDENT. My schools already have an intolerant amount of recording keeping and reporting to contend with." (JMLSTS)

Response:

Collection of the STRF fee by the schools is mandated by the Reform Act (see Education Code section 94945(a)). Because prior STRF assessment law required similar types of data reporting, the impact should be minimal, requiring such changes as modification to a school's calculation of the assessment and documentation of payment from the student. The Bureau made a determination that no reasonable alternative that it considered would be more effective in implementing the proposed regulations. The Bureau is not withdrawing the proposed regulations. However, the Bureau is replacing the Quarterly Assessment Report #STRF-03 with STRF Assessment Reporting, Forms #STRF 03, 04 and 05, effective January 1, 2002, in response to this and other testimony to simplify the data reporting as much as possible while at the same time retaining the ability to monitor remittances from the schools (see comment #39).

42. Comment:

Fiscal Impact Estimates: Did anyone at the Bureau ever run a school or any business??? State agencies are already at the limit of their existing budgets and resources. They cannot adsorb any additional costs and the schools can't either!!! The schools do not have the resources or budget to prepare and submit additional administrative and financial STRF information. School expenses have gone up dramatically, (rents, utilities, insurances, wages, gasolene, school supplies, etc), but the caps that were placed upon the amount of tuition a school can charge have not been increased even once during the same time. Now you want to add another \$2,000.0 in operating costs???????" (JMLSTS of California and Hawaii)

Response:

The STRF assessment rates are established by statute (see Education Code section 94945(a)). The fiscal impact of implementing the changes to the law was calculated as a range of 0 to \$2000 over a two year span. After reviewing the Act, the Bureau does not find a provision that restricts the school's ability to charge as much tuition as is needed to fund its program(s). For those schools that currently have an assessment process in place, the impact should be minimal, requiring such changes as modification to its calculation of the assessment and documentation of payment from the student. The Bureau made a determination that no reasonable alternative that it considered would be more effective in implementing the proposed regulations. Therefore, the Bureau rejects this comment and is not amending or withdrawing the proposed regulations in response to this comment.

43. Comment:

California Design College (CDC) has reviewed the proposed STRF regulations. I have also reviewed comments and modification suggested by the California Association of Private Postsecondary Schools (CAPPS). CDC supports the CAPPS recommendation. (CDC).

Response:

See responses to comments made by CAPPS. These are identified at the end of each comment with their acronym (CAPPS).

Comments out of the scope of this regulatory package:

Introductory comments from The California Association of Private Postsecondary Schools (CAPPS) (pages 1-3)

First paragraph, letter from Ja'onna's Medical and Laboratory Skills Training Schools of California and Hawaii (JMLSTS of California and Hawaii)

Objections or Recommendations/Responses to Modified Text – 15-day Renotice

Pursuant to Government Code Section 11346.8(c), a 15-day renotice comment period was provided from April 7, 2003 to April 23, 2003. As a result of the 15-day renotice, testimony was received from the following:

The California Association of Private Postsecondary Schools (CAPPS)
ITT Educational Services, Inc. (ITT/ESI)
Legal Aid Foundation of Los Angeles (LAF, L.A.)

Comments received and the BPPVE's response to those comments are grouped by section number with the acronym of the commenter in parenthesis following each comment.

The following recommendations and/or objections were made regarding the proposed action:

Section 76000(a)

1. Comment:

Prepaid. This definition should be struck as not relevant to any STRF determination. As author of this language, I took great pains to eliminate the concept of prepaid versus paid. Leaving the definition in law is not helpful. The only remaining mention of prepaid is in section 94945(1), which nullifies the use of prepaid. (CAPPS)

Response:

Since this regulation is not being amended, this comment is outside of the scope of the 15-day renotice amendments. (However, see response to comment #2 submitted during the previous 45-day comment period/hearing.)

Section 76000(c)

2. Comment:

Tuition. The inclusion of the words "any other fee required to receive a certificate or duplicate" fails the regulatory requirement that it be clear and unambiguous. Regulations should be precise. By inserting the ability of the Bureau to come up with any staff interpretation of what other fees should have been included after a STRF payment in calculated defeats the ability of knowing what amounts should be charged in advance by a school. This provision guarantees future confusion and misinterpretation by both schools and the Bureau. The regulation should state precisely what is to be calculated.

The proposed regulation does not accurately reflect the law contained in 94945(a) (2). "The amount to be calculated shall be calculated on the basis of course tuition." The Bureau in its proposed regulation defines course tuition as costs of instruction, instructional materials and equipment's costs, plus other fees. **The Bureau definition seeks to base STRF fees on the total costs of attendance at an institution, not the cost of tuition as required in statute.** This is not a correct interpretation of the existing statute. (CAPPS)

Response:

This comment does not address the modification to subdivision (c), which excludes "an application fee" from tuition costs. Therefore, this comment is outside of the scope of the 15-day renote amendments. (However, regarding the commentor's statement that the Bureau's definition seeks to base STRF fees on the total costs of attendance at an institution, not the cost of tuition as required in statute, please see response to comment # 3 submitted during the 45-day comment period/hearing.)

3. Comment:

Definitions, we are concerned with the following:

Tuition. In AB 2967 §94945 (a) (2) states, "The amount collected from a new student by an institution shall be calculated on the basis of the course tuition paid over the current calendar year, based upon the assessment rate in effect when the student enrolled at the institution, without regard to the length of time the student's program of instruction lasts. For purposes of annualized payment, a new student enrolled in a course of instruction that is longer than one calendar year in duration shall pay fees for the Student Tuition Recovery Fund based on the amount of tuition collected during the current calendar year."

The proposed regulation language would use as the basis "the actual amount charged each student for instruction, instructional materials, equipment costs and any other fee required of the student in order for the student to receive a certificate of completion or diploma attesting to the completion of the instruction required for such certificate or diploma."

This does not support the section of the law that clearly states that the assessment shall be based on the amount of tuition collected during the current calendar year. In degree programs such as those offered at our colleges, there is a big difference between basing the assessment on "the amount of tuition collected during the current calendar year" as specified in the law and basing it on "the actual amount charged...for the student to receive a certificate of completion or diploma..." as the proposed language requires. (ITT/ESI)

Response:

The purpose of this regulation is to define the term “tuition.” This commentor is confusing the definition of tuition with the methodology for determining the assessment rate. Section 76120 clearly states that the assessment rate is calculated for each new student as tuition is paid or loans are funded **not** on the amount charged each new student. Therefore, the Bureau is not amending this regulation any further. (Also, see response to comment #5 submitted during the 45-day comment/hearing period.)

Section 76000(g)

4. Comment:

Economic Loss. The Bureau's new language proposed in the modified language appears to expand the intended beneficiaries of this definition to more than the original beneficiary, which was the student. Bureau language should make clear that the only third party payments that are eligible to be recovered are costs and fees paid by the student to the institution.

Other third-party payments made on behalf of the student, **but not directly from the student**, should not be included in this regulation. (CAPPS)

Response:

The proposed modification is being made to include the provision under section 94944(f) of the Code as part of the economic loss definition. This provision is not to benefit third parties but to protect a student from pecuniary losses. For example, it is common for a student to pay a fee for a licensing exam or a test at an automotive repair school that leads to licensing with the Bureau of Automotive Repair (BAR). If the school closes, cancels or discontinues a course or educational program, the school must make a full refund to the student for all fees that the school collected but failed to send to the licensing agency. If the school does not refund the student for these fees, then the student is out-of-pocket for that amount of money and has suffered a pecuniary loss. The modification to section 76000(g) covers this situation and includes the failure to reimburse a student for such licensing or other fees as an economic loss. This same language was added to section 94342(f) of the Code in 1993 after promulgation of the original regulation and is now part of current section 94944(f) of the Code. Therefore, the Bureau is not withdrawing this modification to the definition of economic loss.

5. Comment:

Section 76000(g). (Page 2) The STRF fees are excluded from the definition of economic loss per this proposed regulation. There is no reason for this. When

the school paid the STRF fees and it was included in determining the price of tuition, the student could recover the cost. Just because the student is paying this charge in addition to tuition, there is no reason, the student should not be able to recover the cost of same just as before.

The STRF fees should be taken out of the section which describes what is excluded from economic loss (line 6 of subsection) and (therefore not allowable STRF recovery) and should be added to the definition of economic loss (for which STRF recovery is allowed) on the second line of the subsection. "STRF fees" should be added after the word "tuition" so it would read "tuition, equipment" (delete the word "and") and insert a comma before the word "materials." Then insert the word "and" and add the words "STRF fees." So it would read: "Economic loss" means pecuniary loss which is the sum of the students' tuition, equipment, materials and STRF fees.... (LAF, L.A.)

Response:

This comment is outside of the scope of the 15-day renote amendments.

Section 76000(i)

6. Comment:

Subdivision (i) Newly enrolled student. The regulation that should indicate the definition is found in 94945 (a) (1) (C) (CAPPS)

Response:

It is sufficient to specify the section in which this definition is located because the statute is clear. Therefore, the Bureau is not modifying this regulation any further.

Section 76120

7. Comment:

Amount of Assessment. The Bureau has missed incorporating into its regulations a critical part of 94945 that deals with STRF payments based on academic term.

94945 (a) (1) (A) states that the STRF amount assessed each student is as follows:

1. "Shall be based on the actual amount charged each of these students for total tuition costs."
2. "Shall be assessed as tuition is paid or"

3. "As loans are funded on behalf of the student"
4. **"Based on academic term"**

The Bureau's proposed regulation neglects to mention academic term as part of the basis of the amount of assessment. Both this regulation and the proposed STRF forms should reflect:

1. Total tuition
2. Amount actually paid on tuition by loan or payment
3. The length of time covered by the amount paid (Academic year, time covered by the loan or calendar year).

Bureau regulations need to reflect the current law, which specifically gives the student the right to pay STRF by academic term (which may in some cases exceed a calendar year). (CAPPS)

Response:

It is not necessary to specify that the assessment is based on "academic term" when calculating the assessment rate because the assessment calculation is based upon tuition payment (see 94945(a)(1)(A) of the Code.). However, this regulation does not preclude institutions from collecting and students from paying tuition based on academic term as provided. This regulation resolves an apparent ambiguity in section 94945 about when a student must pay an assessment, i.e., whether students pay assessments when tuition is first "charged" or as the student "pays." This regulation clarifies that it is the point in time when a student "pays" his or her tuition that they must also pay a STRF fee or assessment. Including the words "based on academic term" does not add any further clarification to the statute. Therefore, to avoid further confusion in the calculation of the assessment rate, it is only necessary to state that it is ultimately calculated "as tuition is paid or loans are funded on behalf of the student," as section 76120 does. The STRF Reporting Forms 04 and 05 make this calculation clear. The Bureau is not amending this regulation further.

Section 76120(d)

8. Comment:

New (d) constitutes an unauthorized fee that is not authorized in the Reform Act. There is no reasonable basis for an institution or the State to be able to calculate how many STRF eligible students will enroll in an institution during its first four years of operations, what their tuition charges will be, and whether the student will complete his or her studies. This is an unknowable and unworkable regulation.

This regulation (which has never been enforced or implemented by the Bureau or its predecessor) should be struck for vagueness and unenforceability. The STRF

fee is based upon student enrollment and subsequent payment of a STRF fee. This regulation is antithetical to the structure of the Act. (CAPPS)

Response:

The modification in this section is being made to conform to statutory language in section 94945(a)(6) and is a technical, non-substantive amendment. Therefore, the Bureau is not amending this regulation any further.

Section 76130(d)

9. Comment:

Subdivision (d) should be amended to indicate that the institution does not have to duplicate existing information on students in a separate STRF file. The information requested by this paragraph is generally available in regular student files. (CAPPS)

Response:

Subdivision (d) is modified to add two additional elements: “total tuition charged” and “total tuition paid” and modifies the language in item 6 from “date enrolled” to “date enrollment agreement signed.”

Regarding the concern of duplicating existing information, the Bureau is not making any further modifications because subdivision (e) of section 76130 specifies the standards for maintenance of the data. If the student file meets these standards, then no additional record-keeping requirement is necessary. Therefore, the Bureau is not amending this regulation any further.

Section 76130(e)

10. Comment:

Subdivision (e) fails to indicate how long an institution must keep this information on file. It should be amended to include a termination date for this information for record-keeping purposes. (CAPPS)

Response:

This comment is outside of the scope of the 15-day renote amendments. (However, please note that section 94829 of the Code already specifies the period for the retention of current records.)

Section 76130(f)

11. Comment:

Subdivision (f). Since the Bureau has in fact not sent any STRF collection forms to schools since January 1, 2002, this section should explicitly discuss catch-up provisions. The catch up provisions should recognize that collection of two-years worth of STRF payments, with differing STRF amounts to charge each year, will be a very complicated matter. The Bureau should address issue-resolution steps, including appeals that schools can use to address the many issues that will be raised in retroactively collecting STRF fees as far back as the late 1990s.

Many of the issues that will arise are lack of actual notice to the schools by the Bureau (mail issues), sale, merger and acquisition by new ownership of STRF-owing schools, and many others. This paragraph should be amended to address these issues. (CAPPS)

Response:

The following addresses the commentor's issues. First, this section, 76130(f), addresses the issue of collecting past due fees. Secondly, STRF Assessment Reporting Forms, #STRF-03, 04 and 05, effective January 1, 2002, address the issue of different rates for different periods. Finally, this regulation applies to students who attend classes starting on or after January 1, 2002. Therefore, the Bureau is not amending this regulation any further.

Regarding any issues that may arise about this subject, the statute at section 94945(e) of the Code already addresses notice and appeal hearing rights. Therefore, the Bureau is not adopting regulations recommended in this comment.

Section 76200

12. Comment:

Section (a) (d). This paragraph is a direct lift from regulations published by the Council in 1996, which has been the subject of both litigation and legislation (AB 201). This regulation was both narrowed and expanded by Section 94944 (a)(2) which states that a court judgment is to be paid under the provisions of 94944 (1)(f).

The proposed re-published regulation cites specifically B&P Section 17200 that has been modified by AB 201. Again, this regulation recites current state statute, which is not allowable. (CAPPS)

Response:

This comment is outside of the scope of the 15-day renote amendments. (However, see response to comment #25 submitted during the 45-day comment period/hearing.).

13. Comment:

Section 76200 (d) (on page 10). To make this section clearer, the last two lines beginning with the word “if” should be deleted and following words should be added instead: “for his economic loss as described in 76000(g).”

The purpose of this section is to limit the amount the student can collect from the STRF fund for a judgment to the amount of his economic loss per 76000(g) despite the fact that the judgment may be for a much larger amount. (LAF, L.A.)

Response:

This comment is outside of the scope of the 15-day renote amendments.

14. Comment:

Section 76200 (e)(2) (on page 11). This whole section should be deleted. This section would allow the Bureau to deny a full STRF recovery to the student who accepts a teach-out and drops out of the teach-out (continuation of the course) after two week. The student would then only be entitled to a pro-rata refund from the STRF for the portion of the course not completed.

The CPPVE (Council) (Bureau predecessor) Director, Ken Miller indicated that when there was a teach-out rather than one complaint, there were two complaints. The first regarding the school that closed and the second regarding a teach-out school. The student has no way of knowing if the teach-out school will be good or not.

Further, the teach-out is not an option unless the BPPVE approves the teach-out. If the BPPVE does not evaluate the school appropriately, the student should not be on the hook. In addition, there is not supposed to be an additional charge to the student for the teach-out unless the training extends for another school year (into a new financial aid school). But this is not a teach-out. Consequently, no more money has been expended for the students’ education by offering a teach-out, so there is no reason the STRF should not pay up or that the paying out of a STRF claim should be avoided.

If the teach-out does not work, the student should not be the insurer in this situation. The BPPVE should be the entity of superior knowledge. But if the BPPVE does not chose right, and approves a teach-out which does not perform

adequately, the student should not take the fall especially when the STRF fund has no more exposure or no exposure regarding the portion of the course taught at the teach-out school. The claim amount sought in a STRF claim would be no higher in terms of dollars than the initial course at the first school which closed. No additional money is paid by the student for the teach-out. (Legal Aid Foundation, L.A.)

Response:

This comment is outside of the scope of the 15-day renote amendments.

Section 76215(a)

15. Comment:

Proposed Regulation 76215 Student Tuition Recovery Fund Disclosures

Subdivision (a) We believe the proposed disclosure is too long and does not address reentering students. We suggest the following language:

“You must pay the state-imposed fee for the Student Tuition Recovery Fund (“STRF”) unless: (a) you are not a California resident; or (b) your total program cost will be paid directly to the school by a third-party and you will have no obligation to repay any of the total program cost to the third party. If you are not required to pay the STRF fee, you are not eligible for protection under or recovery from the STRF.” (ITT/ESI).

Response:

The Bureau is not adopting the commentor’s proposed language because it fails to address the purpose, operation, and eligibility requirements of the STRF as required by section 94825 of the Code. For example, the commentor’s language does not address the eligibility criteria under Education Code section 94944(a)(1)(A).

On the issue regarding the length of the disclosures, the Bureau recognizes that the proposed statement is rather long. However, the Bureau determined that, to accomplish the purpose of the disclosures, the Bureau needed to be as specific as possible regarding the eligibility requirements for STRF and the consequences to the student for non-payment of the STRF fee. Therefore, the Bureau is not making any further changes to this section.

16. Comment:

Section 76215 – Student Tuition Recovery Fund Disclosures

Subdivision (a.) The practical effect on institutions if this language was adopted would be to cause every enrollment agreement and catalog to be reprinted for every school, and every enrollment agreement to be expanded by 25%. This would create a tremendous financial burden for schools that have these contracts pre-printed.

Subdivision (a) is based on Sections 94810 (a)(10) and (11), which require that enrollment agreements must have statement of ineligibility for students who are not California residents and a statement that the student is responsible for paying his or her STRF fee. These are the only two statements required.

There is no requirement in current law that institutions must repeat these statements in the current schedule of student charges. The Bureau had chosen to simply rewrite existing state statute as a regulation. The guidelines that the Office of Administrative Law uses to review proposed regulations do not allow a proposed regulation to simply repeat the state statute.

(a)(1) – page 12 & 13 – This paragraph includes the phrase “prepays all or part of your tuition” under current law, as amended by AB 201 and AB 2967. The concept of “prepayment” has been deleted. The word “prepay” was historically used by some third-party payor schools to avoid paying STRF. The word “prepay” was deliberately omitted from STRF legislation. The Bureau should strike “prepay” and use the word “pay.” (CAPPS)

Response:

The Bureau recognizes that the statement that is provided in this section is rather long. However, the Bureau determined it is necessary to attempt to include all necessary disclosures and eligibility requirements in accordance with Education Code sections 94810(a)(1), (11), 94825(b) and 94944, while at the same time gearing the statement toward the students. Institutions may address concerns regarding reprinting by publishing an addendum to their enrollment agreement and their catalog for the period leading up to the next scheduled printing. (See responses to comments #28 and #29 submitted during the 45-day comment period/hearing.)

Education Code sections 94810(a) and 94825(b) not only require the Bureau to provide disclosure statements regarding student STRF fee payment responsibilities and eligibility, but also a statement describing the purposes, operation and eligibility requirements of the STRF. While the eligibility requirements are stated in the statute, the content of the statement is not specified. In accordance with section 11342(g) of the Government Code and

section 94774 of the Education Code, the Bureau is interpreting the content of these statements. Therefore, this regulation is not duplicative and the Bureau is not modifying this section any further.

The last paragraph in this comment is out of the scope of the 15-day renote.

Section 76215(b)

17. Comment:

Subdivision (b). We suggest the following language be used in Item #4:

4. The school breached its agreement for the course of instruction.
(ITT/ESI)

Response:

The Bureau is proposing to adopt language that more closely reflects the statute because it became evident by the comments received during the 45-day comment period/hearing that rewriting the statute in a more colloquial manner could result in misinterpretation (see comments #29 and #30 submitted during the 45-day comment period/hearing). It is also necessary to include the "school's anticipatory breach" under item #4 of this regulation - which the recommendation in this comment omits - because it is a requirement under section 94944(a)(1)(A)(iv) of the Code. Therefore, the Bureau is not modifying this regulation any further.

18. Comment:

This paragraph not only defines a negative which is not done in the regulatory process, but it also quotes Section 94944 (a) (1) (A) verbatim as a regulation. This is not allowable under state law. (CAPPS)

Response:

Section 94810(a)(10) of the Code requires that this statement be in the negative. Regarding the duplication issue raised by this comment, please see second paragraph of the response to comment #16. Therefore, the Bureau is not modifying the disclosure statement in this regulation.

Exhibit A - STRF Reporting Forms

19. Comment:

STRF Reporting Forms. The proposed forms should be modified to reflect the above comments, particularly as to the omission by the Bureau of academic term as payment period. (CAPPS)

Response:

For the reasons stated under responses to comments 1, 2, 5, 7 through 13, 17 and 19, the Bureau is not modifying the STRF Reporting Forms, STRF #03, 04 and 05, effective January 1, 2002, any further.

Exhibit C - Notice and Explanation of Student Rights under the Student Tuition Recovery Fund (Form #STRF-06):

20. Comment:

(Item 4 in the commentor's letter) The law provides an institution is considered to have closed for STRF purposes in cases other than the whole school closing down. For example, the school is considered to have closed for purposes of filing a STRF claim if a course closes down even if the school remains open or if the course is changed from in-person to correspondence. While this does not necessarily have to be added to the regulations because it is in statute, the alternative definitions re: school closure need to be included in the STRF instructions given potential applicants.

(Item 5 in the commentor's letter) Also missing in the STRF instructions, is the claimant's right to request and have a hearing regarding his STRF claim if he is not satisfied with the Bureau's decision on the claim. This has to be included in the regulations because, claimants are not appraised of the right to a hearing currently so none is ever requested.

Regulations Needed to Address Item Number 4 and 5. Regarding the suggestions in item 4 and 5 (above), regulations must be added which require that: The Bureau shall be required to advise potential applicants to the STRF, in writing, of all the instances which might qualify as a school closure so as to make a former student eligible to file a STRF claim. Another regulation must require that: The instructions for completing the STRF form given to potential applicants and any written denial of a STRF claim, in whole or in part, must advise the applicant that he has a right to hearing to challenge an unfavorable decision by the Bureau regarding his STRF claim. (LAF, L.A.)

Response:

These comments (items #4 and #5 above) refer to the instructions provided to students contained in the Notice and Explanation of Student Rights under the Student Tuition Recovery Fund, Form #STRF-06, effective January 1, 2002 (Notice) (Exhibit C).

Item #4 of this comment about school closures does not address the change that was made to the instructions in the Notice. The sentence in the first item of the list at the bottom of page 1 of the Notice modified “closed” to “closure” in order to make this sentence consistent grammatically with the rest of the items in the list. Therefore, this comment is out of the scope of the 15-day comment amendments.

Regarding item #5 of this comment, it is not necessary to include information about a claimant’s right to request and have a hearing because notification is provided to claimants upon denial or reduction of a claim as per Education Code section 94944(h)(1). Therefore, the Bureau is not amending the instructions for completing the STRF form contained in the Notice and Explanation of Student Rights under the Student Tuition Recovery Fund any further.